

**Representative STRAUS of MATTAPOISETT and ATTORNEY GENERAL THOMAS REILLY**



# The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND FIVE

## AN ACT PROTECTING THE ENVIRONMENT

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Section 11A of chapter 21E of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting the following new subsection at the end thereof:—

(6) Actions brought by the attorney general pursuant to section eleven for civil penalties for violations of this chapter, or of any regulation adopted or order issued thereunder, shall be commenced by the earlier of:

(a) seven years after the date that the department receives a waste site cleanup activity opinion that a permanent solution for the Site has been implemented, or

(b) three years after the date that the commonwealth discovers that the person against whom the action is being brought has violated this chapter, or any regulation adopted or order issued thereunder.

For purposes of this subsection, the commonwealth shall not be deemed to have discovered a violation unless the department has gained actual knowledge that the person against whom the action is being brought has violated this chapter, or any regulation adopted or order issued thereunder. The commonwealth's receipt of a submittal, alone, shall not constitute actual knowledge of the contents of the submittal. Nothing in this subsection shall be interpreted as

precluding an action for a continuing violation, or for failure to implement and maintain a permanent solution for the Site.

SECTION 2. Said chapter 21E is hereby amended by inserting after section 11A the following new section:—

Section 11B. Civil Administrative Penalties.

Notwithstanding any other general or special law to the contrary, civil administrative penalties pursuant to section sixteen of chapter twenty one A for violations of this chapter shall be brought in accordance with the following deadline:

(1) The department shall issue any notice of intent to assess a civil administrative penalty under section sixteen of chapter twenty one A for violations of this chapter, or of any regulation adopted or order issued thereunder, by the earlier of:

(a) seven years after the date that the department receives a waste site cleanup activity opinion that a permanent solution for the Site has been implemented, or

(b) three years after the date that the commonwealth discovers that the person against whom the action is being brought has violated this chapter, or any regulation adopted or order issued thereunder.

For purposes of this section, the commonwealth shall not be deemed to have discovered a violation unless the department has gained actual knowledge that the person against whom the action is being brought has violated this chapter, or any regulation adopted or order issued thereunder. The commonwealth's receipt of a submittal, alone, shall not constitute actual knowledge of the contents of the submittal. Nothing in this section shall be interpreted as precluding an action for a continuing violation, or for failure to implement and maintain a permanent solution for the Site.